

## CHAPTER 42

### URBAN FORESTRY

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#### 11-42-101 Purpose

The City Council of Farmington, Utah recognizes the importance of Livability, Environmental Values, Health Benefits, Real Estate Values and Aesthetics of the urban forest to the quality of life in Farmington City, and deems that in order to preserve the peace, health, safety and welfare, and promote the best interest of the inhabitants of the City of Farmington, that this "Farmington City Urban Forestry Ordinance" be enacted, which shall provide standards, guidelines and criteria for:

- (1) The planting, maintenance, and removal of trees in the public streets, parkways, trails, easements, parks, and other municipal-owned property;
- (2) Review of proposals for the planting, maintenance, and removal of trees on public property;
- (3) The pruning and removal of trees on private property which endanger public safety; and
- (4) Prescribing penalties for violations of its provisions.

#### 11-42-102 Definitions

For the purpose of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning given herein.

(1) **Critical Root Zone** means the area represented by a concentric circle centering on the tree's trunk with a radius equal in feet to one and one-half times the number of inches of the trunk diameter on and below ground level ( $CRZ=[(1.5D)in]ft$ ).

(2) **Hazard Tree** means a tree with structural defects likely to cause failure of all or

part of the tree, which could strike a target.

(3) **Park Strip** means the area within the public right-of-way between the curb and sidewalk, or between the curb or edge of asphalt and property line if there is no sidewalk, or an area inside the private property line where an easement is given to the City for the purpose of planting trees.

(4) **Person** means any person, firm, partnership, association, corporation, company, or organization of any kind.

(5) **Private Trees** means any and all trees now or hereafter growing on private property within Farmington City Limits and which are not defined or designated in this Ordinance as "Public Trees".

(6) **Public Right-of-Way** means a portion of property reserved for public use and accepted for such by Farmington City to provide circulation, access, and/or travel to abutting properties, including, but not limited to, streets, alleys, sidewalks, sanitary or storm sewer, drainage, secondary water, railroad, provisions for public utilities, and open public spaces.

(7) **Public Trees** means all trees now or hereafter growing on any parkstrip, street right-of-way park, or any other public place owned and/or managed by Farmington City.

(8) **Public Utility** means any public, private or cooperatively owned line, facility or system used for producing, transmitting or distributing communications, power, electricity, light, heat, gas, oil products, water, waste, or storm water, which directly or indirectly serves the public or any part thereof within the corporate limits of Farmington City.

(9) **Street** means the entire width of every public way or right-of-way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.

(10) **Standards and Specifications** means to the adopted methods and measures by which Farmington City shall base its Urban Forestry program.

(11) **Tree (Large)** means those trees attaining a height of 60 feet or more and an average width of 40 feet.

(12) **Tree (Medium)** means those trees attaining a height of 40 to 60 feet and an average width of 30 feet.

(13) **Tree (Small)** means those trees attaining a height of 20 to 40 feet and an average width of 20 feet.

(14) **Treelawn** means the part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway used for vehicular traffic.

(15) **Tree Inventory** means a periodic inspection and identification procedure for public trees that shall incorporate a database format.

(16) **Tree Topping** means the specific reduction in the overall size of a tree and/or the severe cutting back of branches and limbs by inter-nodal cuts to such a degree so as to remove the normal canopy and disfigure the tree.

(17) **Urban Forester** means the official designated by the City of Farmington to administer and enforce this Ordinance.

(18) **Urban Forestry Program** means a program implemented by Farmington City for the care and maintenance of the urban forest resources located on City property which is based upon the Urban Forestry Standards and Specifications.

#### **11-42-103      Applicability Provisions**

Street tree planting shall be required along all new local, collector, and arterial streets and private streets within, commercial, industrial, or residential subdivisions. Other projects that are required to plant street trees include a conversion or new established use, new construction, reconstruction, or structurally altered building by one or more additions which the total increase in the floor area is 10% or 1,000 square feet whichever is the least. Notwithstanding the foregoing, an alternative street tree planting plan which varies from the standards contained herein, may be presented to the City for review and approval. The subdivider/developer or individual builders must install street trees according to a plan approved as a part of preliminary plat approval.

#### **11-42-104      Tree Preservation Regulations**

Trees shall be required in the right-of-way fronting the lot, as required by the Urban Forestry ordinance. Existing lots that do not meet this provision at the time of its enactment must comply when a development action is proposed that is compatible with the applicability provisions or when the City issues a building permit to the owner for an exterior alteration, visible from the street, to the main building on the lot, excluding permits for windows and roof materials. Lots that meet the tree provisions, including existing grandfathered lots, must continue to meet the tree code provisions.

#### **11-42-105      Protection of Trees**

(1) Public trees near any excavation or construction project shall be guarded with a substantial fence, frame, or box not less than four (4) feet high and eight (8) feet square, or within the Critical Root Zone, whichever is greater. All building material, dirt, or other debris shall be kept outside the barrier.

(2) No person shall cut tree roots or excavate any ditch, tunnel, trench, or place any paving material within a radius of eight feet from any public tree without first obtaining an excavation permit from the Public Works Department. The Urban Forester shall review and approve all such permits. Special exclusions may be granted to utility companies and other governmental entities as required by law. Utility companies, governmental entities, and property owners must notify the City regarding excavation activity which is unavoidable and/or done without a permit. In cases of life threatening emergencies or utility emergencies notification must be provided to the City within five (5) days of such activity.

(3) No person shall deposit, place, store, or maintain upon a public place, any stone, brick, sand, concrete, or other material which may impede the free passage of water, air, or fertilizer to the roots of any tree growing thereon, except by written permit of the Urban Forester, or his or designee.

(4) Unless specifically authorized by the Urban Forester, or his or her designee, no person or firm shall intentionally damage, cut, carve, transplant, or remove any public tree; attach any rope, wire, nails, advertising posters, or other contrivance to any tree; allow any gaseous liquid, or solid substance which is harmful to trees to come in contact with the tree; or set fire or permit any fire to burn when such fire or the heat thereof will injure any portion of any public tree. All such abuse or mutilation of public trees shall be guilty of penalty provisions set forth herein (11-42-113).

#### **11-42-106 Tree Removal Regulations**

(1) No person or firm shall remove from the parkstrip or otherwise disturb any public tree without first receiving a permit from the City or Urban Forester. Prior to receiving a permit for the removal of any public tree an authorized replacement plan shall be submitted at the time the permit is requested. Such replacement plan shall meet the standards of size, species, and placement as provided for in the permit. The person or firm removing the tree shall bear the entire cost of removal and replacement of all trees removed. The person or firm receiving the permit shall abide by the Urban Forestry Standards and Specifications of Practice adopted by Farmington City.

(2) If it is necessary to remove a tree from the park strip due to installation of a sidewalk, or the paving or widening of the portion of a street or highway used for vehicular traffic, such trees shall be replaced on a one-for-one basis, consistent with the Urban Forestry Standards and Specifications adopted by the City, by the person who removed, or caused the tree to be removed as soon as possible weather permitting. If conditions, excluding weather related conditions, prevent replanting in a park strip, this requirement may be satisfied if an equivalent number of trees are planted on adjoining property.

(3) Each unauthorized tree removed shall constitute a distinct and separate offense and shall also be punishable by the maximum fine allowed under law.

(4) The City's Urban Forester, or his or her designee, shall have the authority to cause the removal of a hazard tree when either pruning or target removal are not adequate corrective actions.

#### **11-42-107 Regulatory Standards**

The Farmington City Urban Forestry Ordinance is accompanied by the Farmington City Urban Forestry Standards and Specifications which are proper and necessary to effectuate the Urban Forestry Program within the City. The Standards and Specifications provide guidance along with the Ordinance for maintenance, planting, removal and pruning of any public trees. All persons and firms shall abide by both the Ordinance and the Standards and Specifications.

## **11-42-108      Maintenance**

(1)      Responsibility of Property Owners. It shall be the duty of any person or persons owning or occupying real property upon which private trees exist, to prune such trees in a manner that they will not obstruct or shade street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection. It shall also be the property owner's responsibility to prune any trees on the public right-of-way that is adjacent to the owner's property and that contain any of the above mentioned obstructions. The minimum clearance of any overhanging branches shall be eight (8) feet over sidewalks and thirteen (13) feet over all streets.

(2)      Tree Topping. It shall be unlawful for any person or firm to top or severely prune any public tree without first receiving prior approval, and/or a permit, from the Urban Forester. Trees severely damaged by storms or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Urban Forester or the Shade Tree Commission.

(3)      Notice to Prune. Should any person or persons owning real property adjacent to any public right-of-way fail to prune trees as specified above, the Urban Forester may order such person(s), after receipt of written notice, to prune such trees. The order required herein shall be served by mailing a copy of the order to the last known address of the property owner by certified mail.

(4)      Failure to Comply. When a person to whom an order is sent fails to comply within the specified time, Farmington City may cause the trees to be pruned and the exact cost thereof shall be assessed to the owner as provided by law in the case of special assessments.

(5)      Responsibility of Farmington City. Farmington City shall be responsible for the pruning and maintenance of the street trees on Main Street from 100 South to 500 North and on State Street from 300 East to 400 West, and on other streets as set forth by resolution of the City.

(6)      Liability. Nothing contained in this section shall be deemed to impose any liability upon the City, its officers or employees, nor shall it relieve the owner of any private property from the duty to keep any tree, shrub or plant upon any public area on his property or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park, public open space, boulevard, alley or public place within the city.

## **11-42-109      Guarantee of Planted Trees**

If any tree installed by Farmington City or any developers is dead, dying, diseased or unhealthy, Farmington City and those developers shall be required to guarantee the trees planted by them for one (1) year.

## **11-42-110      Administration**

(1)      Shade Tree Commission. The Farmington City Planning Commission shall be known and designated as the "Shade Tree Commission". The duties of the Commission

shall be as follows:

(a) Tree Master Plan. To study, investigate, counsel, develop, administer, and/or update a "Tree Master Plan" for the care, preservation, pruning, planting, replanting, removal or disposition of public trees. The Tree Plan shall specify the species of tree to be planted on each of the streets or other public sites of the City. From and after the adoption of the Tree Master Plan, or any amendment thereof, all planting shall conform thereto. A street tree inventory should be included and updated along with the Tree Master Plan. A list of approved trees to be planted shall be maintained and included in the Standards and Specifications.

(b) Capital Projects. Establish policies for the review and approval of capital projects where trees or other vegetation will be planted or removed on City property.

(c) Private Projects. Establish policies for the review and approval of projects on private property where open space and/or landscaping is required as a condition for the development, and establish policies for the enforcement of approved plans.

(d) Promoting Landscaping. Encourage installation and maintenance of landscaping on private property by providing information on the value of landscaping and on the proper planting and care of trees and other vegetation, by conducting educational campaigns to inform residents of the requirements of city ordinances relating to landscaping, and by promoting private involvement in beautification projects.

(e) Arbor Day. Promote appreciation of trees and the urban forest through annual Arbor Day, the last Friday in April, observances and other activities.

(f) Project Identification. Identify landscaping projects that will enhance the urban forest and incorporate these projects into the Comprehensive Tree Plan.

(g) Historic Preservation. Establish policies and procedures to identify, mark, publicize and preserve historic and notable trees on both public and private property.

(h) Landscape Budget. Establish an annual budget for the planting and care of trees and other vegetation at an appropriate funding level.

(i) Urban Forest Improvement. Encourage improvement and expansion of the urban forest through planning and policy development;

(j) Advocates for Urban Forest. In all instances, serve as an advocate of the City's urban forest.

(2) Urban Forester. There is hereby created the office of Urban Forester. The Urban Forester shall hold a college degree or its equivalent in arboriculture, ornamental or landscape horticulture, urban forestry, or other closely related field and shall administer and enforce this Ordinance. Related work experience of four (4) years may be substituted for the

appropriate amount of education. The Urban Forester shall be appointed by the City Manager, with the advice and consent of the City Council and Shade Tree Commission. The Urban Forester may be assisted by other persons as authorized.

(a) Duties of the Urban Forester. The Urban Forester shall represent Farmington City in carrying out and enforcing of the stated purposes of this Ordinance and shall have the following responsibilities:

(i) Supervision. Supervise the Urban Forestry Program, and regulate the planting, maintenance, removal, fertilization, pruning, and bracing of public trees to insure safety and/or preserve the aesthetics of streets and public places.

(ii) Condition of Permit. Affix reasonable conditions to the granting of a permit in accordance with the terms of this Ordinance.

(iii) Permits. Issue permits as required herein, and inspect all work done under a permit issued in accordance with the terms of this Ordinance.

(iv) Tree Master Plan. Assist the Shade Tree Commission, as necessary, in the formulation of the Tree Master Plan. The Urban Forester, with the approval of the Shade Tree Commission, shall have the authority to amend or add to the Tree Master Plan at any time that circumstances make it advisable.

#### **11-42-111 Enforcement**

No person shall hinder, prevent, delay, or interfere with the execution or enforcement of this Ordinance by the Urban Forester, or his or her designee. Said Official shall have full authority to inspect all locations where said Ordinance apply, issue stop work orders, and notices of non-compliance. However, nothing contained herein shall be construed as an attempt to limit the pursuit of any legal or equitable remedy in a court of competent jurisdiction for the protection of property rights by the owner of any property within Farmington City.

#### **11-42-112 Severability**

Should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

#### **11-42-113 Penalty Provisions**

Any person violating or causing the violation of any of the provisions of this Ordinance, or failing or refusing to do some act required under this Ordinance, shall be subject to the penalty provisions of Chapter 38 of the Zoning Ordinance.

#### **11-42-114 Appeals**

(1) Appeal may be made to the Shade Tree Commission by the City or any person

aggrieved by a final decision, determination, or requirement of the Urban Forester made under the provisions of this Chapter. All appeals shall be made as follows:

(a) The appeal shall be made within fifteen (15) days of the action or decision being appealed from by filing a written notice of appeal, along with a designated fee, with the Urban Forester and the Shade Tree Commission;

(b) The notice of appeal shall specify, in detail, the action and grounds upon which the applicant or other interested parties deem themselves aggrieved. A notice which fails to specify grounds for appeal may be summarily dismissed by the Commission with or without prejudice;

(c) All papers constituting the record upon which the action being appealed is based shall be transmitted to the Shade Tree Commission;

(d) The Shade Tree Commission shall set the appeal for hearing to be held within a reasonable time from the date the appeal is received. Public Notice of the appeal hearing shall be given as required by law and according to Policies adopted by the Commission. Written notice of the date set for hearing shall be mailed to the appellant at least seven (7) days prior to the hearing. An applicant may appear in person or may be represented by an attorney or other authorized agent at any meeting of the Commission. Written authorization shall be required for an agent. After hearing the appeal, the Commission may reverse or affirm, wholly or in part, or may modify the order, requirement, decision, or determination appealed from. An affirmative vote of four (4) members of the Commission shall decide any matter under consideration;

(e) The filing of an appeal shall stay all proceedings and actions in furtherance of the matter appealed, pending a decision of the Commission. Said stay shall exist unless the Urban Forester certifies to the Commission, after the notice of appeal has been filed, that by reason of facts stated in the notice, the stay would cause imminent peril to life or property. In such a case, proceedings shall not be stayed except by restraining order granted by the District Court on application, notice, and due cause shown;

(2) Any person adversely affected by any final decision of the Shade Tree Commission in the administration of this Chapter may appeal such decision to the City Council in accordance with the provisions set forth section 11-4-109 of the Zoning Ordinance.



